

BARNEY FRANK  
4<sup>TH</sup> DISTRICT, MASSACHUSETTS

2252 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-2104  
(202) 225-5931

29 CRAFTS STREET  
SUITE 375  
NEWTON, MA 02458  
(617) 332-3920

**Congress of the United States**  
**House of Representatives**  
**Washington, DC**

558 PLEASANT STREET  
ROOM 309  
NEW BEDFORD, MA 02740  
(508) 999-6462

THE JONES BUILDING  
29 BROADWAY  
SUITE 310  
TAUNTON, MA 02780  
(508) 822-4796

Dear Friend,

For obvious reasons, I have received a large volume of communication from people in my district about the immigration issue, touching on all aspects of this complex matter. I have therefore prepared the following response that gives my position on all those aspects because on a subject such as this where opinion is divided, and where I believe continuing national dialogue is important, I want to be sure to give my complete views on this subject to everyone interested. Otherwise, there is the possibility that because of a lack of context, my views on the overall subject might not be fully presented and this is a matter which is too important to the future of the country and too complex in my view to allow any possibility of oversimplification.

This is particularly the case because my views on the matter of immigration – as you will see if you continue to plow through this lengthier than usual response – are evolving, not just over the years in which I have worked on this issue, but as I have listened to a variety of opinions. And I can assure everyone who has been in touch with me on the matter that because of the importance of arriving at a decision which will be broadly supported by the people of this country, I have paid very close attention to the views that have been expressed to me on this matter from people whom I represent.

Fundamentally, there are two conflicting issues that are at the heart of the immigration problem. First, it is clearly unhealthy for a society to have within it millions of people who are here illegally. It is not a good thing for people to ignore the law in any case, and it is a problem for us when there are millions of people who are here illegally because they do not have the incentives to comply with the law that should exist in a democracy. People who are here illegally may be reluctant to cooperate with law enforcement when they have information that would be useful. Our ability to enforce laws that seek to protect working people – with regard to the right to join unions, occupational safety, payment for overtime, etc. – are undermined if those who are working are deterred from complaining to the authorities because of their illegal status. There is also the possibility that people will neglect their health, which may be a problem primarily for them, but in the case of infectious diseases, becomes a public health problem.

On the other hand, it is clear that the great majority - not all - of these people play a role in our economy. While I am a critic of the unrestrained approach to the private sector which I believe the previous administration pursued, I do believe that our capitalist system, with proper interaction with the public sector, produces the greatest wealth that we can achieve, and I believe that the incentives that this system gives are generally in

our overall economic interest. In this case, the relevant fact is that the millions of people who are here are – again overwhelmingly but not in every case – attracted by the possibility of being able to work in jobs that may seem unattractive to many, but which are both essential to our economy and are better jobs than they would get in their own countries.

Thus, we have the need that our economy has expressed for people in the workforce, balanced against the fact that it is unhealthy to have people here illegally. In deciding how to resolve this, I believe a third factor has to be taken into account: the extreme difficulty that a free society such as ours would have in expelling millions of people who have been here for years and have found places in the economy. We are not China or Saudi Arabia. This means that we cannot simply physically expel people who have been here for some time. This differs, by the way, with what we can do when people are apprehended crossing the border illegally. In fact, one part of the comprehensive solution in my view is for us to impose some penalty on people who we catch entering illegally from now on, and rather than simply send them home so they can try again, I am prepared to pay the price of some imprisonment of these people for a period of months in the hopes of deterring them from repeated attempts to enter illegally.

But as to the people who are here already, our law would require us to provide the rights of any one accused of breaking the law in the process of deportation. Since obviously these are people who would do everything they could to escape deportation, we would have to have an extremely large number of police officers – far larger than anything we have ever had in our society – to arrest them, more jails in which to hold them, more courts in which to try them. For those who say there is no need for trials, the answer is that many of these people would claim that they had documentation and were here legally and had lost it. As incredulous as many of us might be about these claims, America being what it is, I do not believe we should allow the authorities simply to ignore claims, but rather we must require some tribunal in which to adjudicate them. In other cases people will claim to have other identities. All in all, I believe that the expulsion against their will of millions of people who will take full advantage of the American legal tradition is a prohibitive task, and I do not want to sacrifice that tradition.

This leads me to the view that we should take some steps to provide a legalized status for these people, since it is unhealthy for us for them to be here illegally, since they do play an important role in our economy, and since it is impossible physically to expel them. Having said that, I agree that if we do this, we should at exactly the same time institute very tough rules that will prevent additional millions from coming here illegally. Part of that will come from border enforcement, and I agree that we should significantly increase this. One of the problems we have had is that this is expensive, and providing enough money to do adequate border enforcement – with all that this entails – including in my judgment incarceration of people who cross illegally to deter them from doing it again – has been resisted in part because people have put a much higher priority on tax cuts and the wars in Iraq and Afghanistan. I support the war in Afghanistan, but I believe that the war in Iraq is unwise and the hundreds of billions we are spending there have the

inevitable effect of keeping us from spending everything we should on border enforcement.

But I do not believe that border enforcement alone will suffice. Once again the fact that we are a free society and insist on remaining one is relevant. Given the length of our borders with Mexico and Canada and our shorelines, and given the need for millions of people to come and go between the U.S. and Mexico and the U.S. and Canada, simply physically preventing people from coming illegally when they have a powerful incentive economically to do so is in my view again impossible in a free society. We should try to cut down significantly on illegal entry, and that is why I believe that some penalty for crossing illegally with some imprisonment should be added to our law. But I think some of my conservative friends who believe that we can do this entirely by border enforcement are neglecting the power of the free market economy. When people are given a strong economic incentive to do something, many of them will do it and it is very hard again for a free society which wants to allow millions of its own citizens to come and go without restriction physically to keep all of them out.

This is why in 1986 I was one of the strongest supporters of the legislation that made it specifically illegal to hire people who came here illegally, and imposed sanctions against employers who hired people. But I do acknowledge that this has not worked very well. Partly it has been because employers have had their own powerful economic incentives to avoid this and have on the whole refused to cooperate with the law. Part of it has been a lack of enforcement, with the previous administration being particularly lax in this regard. Part of it also is the difficulty of asking even the best intentioned employers to become document experts. As we know, people have been successful in forging various documents and we did have to agree when we passed the law over twenty years ago that the employer who made good faith efforts to look at documentation could not be held liable if he or she was the victim of a clever fraud. This does not mean of course that all of those who have hired illegal workers are victims of fraud. Many do so knowingly, but the possibility of document fraud as a legitimate defense has undermined the whole approach to restricting employers from doing this.

That is why I believe the most important new element we should adopt as we provide some form of legalization for the millions who are already here and cannot in my judgment practically be removed is to set up a national registry of those legally eligible to work, require anyone seeking to hire someone else to check with that registry and have stiff penalties for people who do not comply – and by this I mean the employers.

Note that this is not a national ID card, which has been one of the proposals made to deal with this. I understand the strong objections many Americans have to being told that they have to carry around ID cards. What I propose is that we create through the technological means that I think are now available a registry in the federal government to which employers will be required to refer before hiring anyone. I stress that this will apply before they hire anyone, citizen, non-citizen, etc. This will be a listing of all those who are legally eligible to work in America. While no system will be 100% fool proof, I believe that having a registry of this sort is something that we are technologically able to

do. And an employer who makes the proper inquiry of such a registry should be assured that he or she will not be punished if there was some problem in the registry. On the other hand, any employer who hires someone who was not certified to him or her by the registry would be subject to penalties, and I would make those penalties steeply increasing ones. That is, I do not think first offenses should be more than a fine, but in the case of people who systematically abuse this, very significant monetary penalties and ultimately imprisonment – certainly no later than a third offense – would be appropriate.

Combining a system of giving legal status to people who are already here and have not committed a crime other than their illegal presence in the country with a well enforced rule against anyone hiring anyone who is here illegally in the future is I think the best approach. I stress again that the people who are here illegally, while a problem because of their illegal status, do play a role in our economy. Indeed, one of the problems often cited is the fact that thirty years from now we will have a very large number of people who are retired compared to those of working age, certainly a far greater ratio in that regard than existed at the time of Social Security's inception. One way to deal with that is by accepting immigrants. That is, allowing immigrants of working age to come here and making sure that they are paying fully into the Social Security system – or making sure that those already here and employed are paying fully into the Social Security system – would in fact put off the date when Social Security would begin to fall behind, and reduce in any case the need to make any adjustments in the ratio of benefits to taxation, etc.


In fact, if we are successful in instituting the policies that I support for deterring future illegal immigration – stricter border enforcement, including incarceration of those who come illegally at the moment they are caught, and a strict national registry with strong penalties for those who hire people who should not be here, we may well find that we should be increasing legal immigration. Immigrants have played and will continue to play a positive role, especially if they are in fact here legally. So to the extent that we are able to reduce illegal immigration by a significant amount, that would give us not just the ability but the need to increase legal immigration, which partly will meet the argument of those who say it is unfair to grant any kind of legalization when those who were willing to immigrate to this country in the right way are being kept out. We could immediately significantly increase the number of people we take off the waiting list, if we are able to institute these other safeguards so that we will continue to have people of working age immigrating. It is of course the case that for obvious reasons, people who emigrate from one country to another are generally more energetic and entrepreneurial than those of their countrymen or women who stay behind. The act of immigrating has always been an act of economic initiative for most people, and I believe that that is one of the reasons that America has prospered to the extent that it has.

Finally, this leaves the question of guest workers. That is, the question is should we, having dealt with the problem of people who are here permanently but illegally, then institute a situation in which employers can temporarily bring in non-citizens to do various kinds of work? I am currently opposed to such a proposal. The people who are imported to do this sort of work, it is true, do work that many Americans don't want to

do. But I believe this could be resolved if the pay that was offered was increased. And since the temporary workers in fact work in jobs where America is not being competed with by low wage countries elsewhere – these are often service jobs or agricultural labor – I believe we could increase the amount paid, hopefully induce more Americans into these jobs, and not have to bring in guest workers. At the very least, I believe we should hold off any guest worker program until we have taken steps to improve the attractiveness of jobs to Americans. In this context, I believe a significant increase in the minimum wage is a good idea, and I am pleased that this has now gone into effect because of Democratic insistence. We also need more money to enforce various laws that exist for the protection of workers. As I said above, one of the problems with people being here illegally is that their presence as competitors with people who are here legally has the effect of depressing working conditions and wages to some extent, and a guest worker program would do that even more. So I have been opposed to a guest worker program, and I think that we should instead insist on measures to improve the attractiveness of various jobs for low income Americans before concluding that such a program is necessary for our economy.

The Obama administration has recently met with Congressional leaders for a policy conversation on the issue as well as to develop a plan on how to move forward. Despite the previous administration's unsuccessful efforts to work with Congress to resolve this issue comprehensively, given the increased numbers of Democrats in both Houses and the current administration signaling an interest for an earnest debate on reform, I am hopeful that we will be able to move forward on comprehensive immigration legislation during this Congress. As part of that effort, I will be supporting the adoption of legislation including the elements I have described in this letter.

Sincerely,

A handwritten signature in dark ink that reads "Barney Frank". The signature is written in a cursive, flowing style.

BARNEY FRANK